

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 597 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA and
MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgement?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

R R DWIVEDI EDUCATION TRUST

Versus

VEJAL PUR GRAM PANCHAYAT

Appearance:

MR NIRAV MAJMUDAR & MR.D.S.SURANI for MR PB MAJMUDAR
for Petitioner

CORAM : MR.JUSTICE M.R.CALLA and
MR.JUSTICE R.P.DHOLAKIA

Date of decision: 16/04/99

ORAL JUDGEMENT

No one is present for respondent Vejalpur Gram Panchayat, although the name of the learned Counsel representing the respondent Panchayat has been shown in the Board and the matter is on the Board for hearing

since April 1999 at Sr.No.8.

2. The petitioner claims to be an Education Trust carrying on educational activity on no-profit-no-loss basis. The petitioner's case is that it has been running a school since June 1970 at Vejalpur. It has been then stated that the respondent Vejalpur Gram Panchayat by its order dated 7.10.1977 had informed the Trust that so far as the building tax of the said school is concerned, which was at the rate of Rs.500/- per year at that time, given exemption from paying the tax as per Resolution No.48(2)(1) passed at the meeting of the Panchayat. A copy of the Resolution has been annexed as Annexure.A. Thereafter another Resolution dated 16th May 1977 was passed whereby it was decided to give such exemption upto 1980-81 in terms of the Resolution No.46 of the Panchayat, a copy of which is annexed as Annexure.B. It is the further case of the petitioner that after 1980-81, the school made a request that exemption may be continued in their favour since it was a public Trust having educational purpose, but by letter dated 1.2.1982, the petitioner was informed by the respondent Panchayat that since the petitioner Trust is recovering rent from the Government, it was not exempted from tax. A copy of this letter dated 1.2.1982 is annexed as Annexure.C.

3. This Special Civil Application was filed in the year 1985 with the prayer that the respondent be directed to grant exemption to the petitioner Trust from paying the building tax. We have gone through the pleadings and the Annexures filed with the petition. In the papers of this case made available to us at the time of hearing, we find that no reply has been filed by the respondent. The order dated 8.32.1985 passed by this Court shows that while issuing the notice of this petition, it was recorded that the petitioner agrees to deposit the amount of tax demanded by the Panchayat. Thereafter, Rule was issued on 29th March 1985 and the interim relief was not pressed. We have looked into the Resolutions at Annexure.A and B passed by the Gram Panchayat and we have also looked into the provisions of the Gujarat Panchayats Act. We do not find that such an exemption with regard to the building tax can be claimed by any party including an education Trust as a matter of right. Merely because the Gram Panchayat had chosen to exempt the Trust for certain period upto 1980-81 on the basis of the Resolution passed by it, no right accrues in favour of the petitioner to claim such exemption for subsequent period or for all times. The petitioner education Trust has no subsisting right under any law to claim such an exemption and to seek a direction by this Court in the

nature of writ, order or direction to direct the respondent to exempt the Trust from paying the building tax. This writ petition appears to be wholly misconceived. There is no force in this petition. The same is hereby dismissed. The Rule is hereby discharged. No order as to costs.

sreeram.